

**DEPARTMENT OF ADMINISTRATION
DIVISION OF BANKING & FINANCIAL INSTITUTIONS**



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TO: Montana Licensed Sales Finance Companies, Banks, and Credit Unions
FROM: Department of Administration, Division of Banking and Financial Institutions
DATE: August 7, 2013
RE: 2013 Legislative Amendments to Montana Retail Installment Sales Act

October 1, 2013, is the effective date of numerous amendments to the Montana Retail Installment Sales Act that were signed into law during the 2013 Legislative Session. The purpose of this memorandum is to summarize the primary substantive amendments. To view the bill in its entirety, go to the Montana Legislative Branch website <http://www.leg.mt.gov/css/default.asp>. On the left side of the computer screen, click on Bills then on 2013 LAWS. Fill in the Bill Type and Number (HB 63) and enter. Be sure to view the final version of the bill.

Statutory language that was amended is shown by a strike through (e.g., A seller who complies with). Newly adopted language is underlined. Be advised that some stricken provisions have only been moved to a different statute and underlined there in order to consolidate related topics and improve the overall organization of the Act.

SUMMARY

§31-1-203, MCA, now authorizes the department to impose civil penalties, place conditions on a license, order restitution be paid to retail buyers, recover costs of bringing an enforcement action, and/or suspend or revoke the license of a person for violating the Act subject to prior notice and opportunity for an administrative hearing. Previously, the department's only authority was to suspend or revoke a license. The former remedy can be impractical and the latter can be unwarranted and overly harsh. The additional remedies are consistent with the Division's authority pertaining to other financial services entities that it regulates.

In §31-1-221, MCA, credit unions were included in the list of depository institutions that are required to comply with the Act in regard to retail installment contracts that they purchase pursuant to an indirect lending program.

In §31-1-222, MCA, two more bases for denying an initial license or a license renewal were added.

§31-1-231, MCA, provides new specific language that must be included in the disclosure/notice to consumers.

In §31-1-232, MCA now requires that if the contract that is signed by the seller is mailed to the buyer, the seller must retain proof of delivery.

In §31-1-235, MCA, significant substantive changes were made regarding allowable delinquency fees. In addition, the amendments clarify that regularly accruing interest may be collected in addition to a delinquency fee if the contract is made on simple interest and is not a pre-computed contract.

§31-1-236, MCA requires licensees to provide the buyer with a sufficient acknowledgment of payment in full and release of security whether or not the buyer has made a written demand.

§31-1-241, MCA was amended to conform to the federal law requirement that at least 45 days advance notice be given of any impending change of terms to a revolving charge account.

§31-1-242, MCA has been amended to clarify the requirements for refunds on prepayment of pre-computed contracts. Specifically, the amendments require refund credit for the anticipation of payments on a pre-computed contract and for any other unearned fees calculated by use of the actuarial method. The refund amount is the portion of the original finance charge that is applicable to all fully unexpired months in the contract as originally scheduled or as deferred, following the date of prepayment.

Lastly, the bill authorizes the Department to participate in a nationwide licensing system for the licensing of sales finance companies. The Department sought the legislative authorization after states were offered the opportunity to license regulated, non-mortgage financial services businesses through the Nationwide Mortgage Licensing System (NMLS). The date for transitioning the licensing of sales finance companies onto NMLS has not been determined but ample advance notice, information, and assistance will be available to current licensees and new license applicants. A number of states are currently licensing their sales finance company licensees through NMLS.